

<b>ALASKA DEPARTMENT OF LABOR AND WORKFORCE DEVELOPMENT</b> <b>Alaska Workforce Investment Office</b>	
<b>SECTION:</b> 1000	<b>POLICY NUMBER:</b> <b>Original:</b> 1001 <b>Revision Number:</b>
<b>SUBJECT:</b> Training Provider Eligibility For Eligible Adult and Dislocated Worker Customers	<b>Page 1 of 1</b>  <b>Doc. WIA PN:</b> 1001 ETP
<b>REFERENCE: Workforce Investment Act (WIA)</b> <ul style="list-style-type: none"> <li>• <u>Public Law 105-220</u>, August 7, 1998: Title I, Chapter 3, Section 122: Identification of Eligible Providers of Training Services</li> <li>• <u>Federal Register 20 CFR Part 652</u>, WIA, August 11, 2000: Subpart E, Eligible Training Providers, Section 663.500</li> <li>• <u>US Department of Labor Memorandum</u>, January 19, 2001: Application of Family Education Rights and Privacy Act (FERPA)(20 U.S.C. 1232g) To Reporting For Eligible Training Providers Under Title I of WIA</li> </ul>	<b>Effective Date of Original:</b> January 1, 2002  <b>Effective Date of Revision:</b>
<b>APPROVED:</b>	

## PURPOSE

The procedure for determining training provider eligibility sets forth Alaska's policy for determining the eligibility of training providers and their programs to receive funds under the Workforce Investment Act (Public Law 105-220) Title I-B Individual Training Account.

Local Workforce Investment Boards are required to use the procedure. The procedure shall be used to determine eligibility during the time period beginning July 1, 2001 and ending on June 30, 2002. The Alaska Human Resource Investment Council (AHRIC) on behalf of the Governor may modify or extend the procedure for use beyond June 30, 2002.

The procedure consists of three parts.

- Part I establishes the State required performance levels.
- Part II establishes the definitions and calculations of the performance measures and the methodological protocols.
- Part III establishes the processes for training provider application, data submission, denial of application; and appeal.

## REQUIRED POLICIES FOR SETTING PERFORMANCE LEVELS

### ➤ **PART I: State Required Performance Levels**

In order for a program of a training provider to be eligible, the program must meet or exceed certain performance levels.

A program must meet or exceed each of the following minimum performance floors:

- An employment rate of 65 percent;
- An earnings level of \$3500 in a calendar quarter

Failure to achieve any one of these minimum floors shall make the program ineligible.

If a program meets or exceeds each of the minimum performance floors it shall be determined to have satisfied the State required performance levels. Local Workforce Development Boards may establish higher performance levels and/or additional criteria for eligibility.

### ➤ **PART II: Definitions and Calculations of Performance Measures and Methodological Protocols**

Part II defines the performance measures and methodological protocols that will be used to determine training provider eligibility. Measures A-2 and A-3 shall be used to determine eligibility. Eligible providers may receive funds under the Workforce Investment Act (WIA) Title I-B Individual Training Accounts beginning January 1, 2002. *Appendix A* provides a definition of the terms used in the performance measures.

The performance measures are based on administrative records (see *Appendix A* Definitions: 'Minimum Data Requirement') submitted to the Department of Labor and Workforce Development, Research and Analysis (DOL/R&A) and matched with other administrative records as appropriate. Additional, supplemental data will be accepted under certain conditions as specified in *Appendix B*.

It is the responsibility of the training provider to submit the necessary data elements to DOL/R&A for the performance measures to be calculated. The required process for data submittal is identified in Part III of this policy.

The performance measures are categorized in two groups. The first group (**A**), applies to all program participants; the second group (**B**), applies only to participants who receive assistance under WIA Section 134.

**A. All Program Participants**

**Performance Measures for all individuals participating in the programs of training services, including individuals who are not receiving assistance under WIA section 134, and individuals who are receiving such assistance.**

**A-1. Completion Rate:** "The program completion rates for all individuals participating in the applicable program conducted by the provider." (WIA Section 122)

**State definition:** The percentage of all exiters from the applicable provider program who successfully completed that program.

**A-1 Calculation:** The number of successful completions of the applicable program during the reporting period divided by the number of all exiters from the applicable program during the reporting period.

# successful completions of the applicable program during the reporting period ÷  
# all exiters from the applicable program during the reporting period

**A-2. Employment Rate:** "The percentage of all individuals participating in the applicable program who obtain unsubsidized employment." (WIA Section 122)

**State definition:** The percentage of all exiters from the applicable program who obtained unsubsidized employment.

**A-2 Calculation:** The number of all exiters from the applicable program during the reporting period with unsubsidized employment in the third quarter after the quarter of exit divided by the number of all who exited the applicable program during the reporting period.

# all exiters from the applicable program employed in any quarter after exit ÷  
# all exiters from the applicable program during the reporting period

**A-3. Earnings level:** "The wages at placement in employment of all individuals participating in the applicable program." (WIA Section 122)

**State definition:** The quarterly earnings of all participants exited from the applicable program with earnings in unsubsidized employment in the third quarter after exit.

**A-3 Calculation:** The median quarterly earnings of all exiters from the applicable program during the reporting period with reported earnings in the third quarter after the quarter of exit.

## B. Participants Who Receive Assistance Under WIA Section 134

**Performance Measures only for individuals receiving assistance under the WIA Title IB adult or dislocated worker program who are participating in the applicable program of training services. On-the-job training and customized training programs are exempt.**

**B-1. “The percentage of participants who have completed the applicable program and who are placed in unsubsidized employment.” (WIA Section 122)**

**State definition: The percentage of WIA-funded exiters from the applicable program who successfully completed the program and obtained unsubsidized employment.**

**B-1 Calculation:** The number of WIA-funded successful completers of the applicable program during the reporting period who obtained unsubsidized employment by the end of the first quarter after the quarter of exit divided by the number of WIA-funded exiters from the applicable program during the reporting period.

$$\frac{\text{\#WIA-funded successful completers with employment in the first quarter after the quarter of exit}}{\text{\#WIA-funded exiters from the applicable program during the reporting period}} \div$$

**B-2. “The retention rates in unsubsidized employment of participants who have completed the applicable program, 6 months after the first day of employment.” (WIA Section 122)**

**State definition: The percentage of WIA-funded successful completers of the applicable program in unsubsidized employment in the first quarter after exit who remain in unsubsidized employment in the second or third quarter after exit.**

**B-2 Calculation:** The number of WIA-funded successful completers of the applicable program during the reporting period with unsubsidized employment in the first quarter after exit and who remain employed in the third quarter after exit divided by the number of WIA-funded successful completers of the applicable program with employment in the first quarter after exit.

$$\frac{\text{\# WIA-funded successful completers}}{\text{\# WIA-funded successful completers of the applicable program with employment in the first quarter after exit}} \div$$

$$\frac{\text{\# WIA-funded successful completers of the applicable program with employment in the first quarter after exit}}{\text{\# WIA-funded successful completers of the applicable program with employment in the first quarter after exit}} \div$$

**B-3. “The wages received by participants who have completed the applicable program, 6 months after the first day of the employment involved.” (WIA Section 122)**

**State definition: Earnings in the second and third quarter after exit minus earnings in the second and third quarter prior to registration, or dislocation, among WIA-funded successful completers of the applicable program.**

**B-3 Calculation:**

- **Adult Earnings Change:** Of WIA-funded successful completers of the applicable program during the reporting period with employment in first quarter after exit:

$$\frac{[\text{Total Post-Program Earnings (earnings in quarters 2 + 3 after exit)}] - [\text{Total Pre-Program Earnings (earnings in quarters 2 + 3 prior to registration)}]}{\# \text{ WIA-funded successful completers of the applicable program with employment in first quarters after exit}}$$

- **Dislocated Worker Earnings Replacement:** Of WIA-funded successful completers of the applicable program with employment in the first quarter after exit:

$$\frac{\text{Total Post-Program Earnings (earnings in quarters 2 + 3 after exit)}}{\text{Pre-Dislocation Earnings (earnings in quarters 2 + 3 prior to dislocation)}}$$

If there is insufficient data to determine eligibility based on the performance measures, a program that is initially eligible shall remain eligible, subject to the provider’s application being accepted by the LWIB (see Part III).

As required under WIA, data for the calendar year must be submitted by providers no later than June 30 of the following year.

➤ **PART III: Application, Data Submittal, Denials, and Appeal Process**

Part III is divided into 3 sections:

- A. Annual renewal guidelines for training programs that are already on Alaska’s Eligible Training Provider (ETP) list.
- B. Procedures for approving new programs for ETP eligibility from training providers.
- C. Procedures for denying initial ETP eligibility, removing a training program from the list, and appeals.

**Section A**

**Annual renewal for training programs that are already on Alaska's ETP list**

Each year Department of Labor and Workforce Development, Research and Analysis (DOL/R&A) will collect participant data from all training providers on the State ETP list. Research and Analysis will specify the required data elements (*Appendix E*). The Department of Labor will supply the data for Alaska's registered apprenticeship programs. Research and Analysis staff will directly contact all training providers on the ETP list requesting the required participant data and the due date.

Renewal of eligibility for a training program requires the program to meet required levels of performance [WIA Section 122(c)(6)(A)]. The data sources for identifying performance results are administrative records (e.g. participant records and unemployment insurance wage records). In some cases, DOL/R&A will accept supplemental data from the training provider. See Parts I and II for the State policies on required performance levels, performance measures, minimum data requirements, and conditions when supplemental data may be accepted by DOL/R&A.

Research and Analysis will compare a training program's performance results (completion rates, employment rates, earnings) with State performance criteria to determine whether a training program meets State required performance levels. DOL/R&A will inform the Local Workforce Investment Board (LWIB) and the provider of its determinations. Some programs of training may not have the minimum data required for DOL/R&A to conduct the State performance review. DOL/R&A will inform the provider and LWIB that the training program(s) will be given an "interim eligibility" status and remain on the State list until minimum data is available to conduct the State's performance review.

A training provider that is unwilling to supply DOL/R&A with required and available participant data (or are unwilling to sign a statement of commitment to begin collecting and supplying the required participant data) will be informed that its program(s) of training will be removed from the State ETP list.

WIA Section 122(c)(6)(B) allows LWIBs to set higher levels of performance than the level required by the State. In addition, WIA Section 122(d)(2)(B) allows the LWIB the option of requiring the training provider to submit other verifiable program-specific performance information to obtain subsequent year eligibility. A LWIB adopting local standards that go beyond the State minimum criteria should provide these local procedures to Department of Labor and Workforce Development Alaska Workforce Investment Office (DOL/AWIO).

LWIBs have the option of establishing a local area policy to accept supplemental individual participant data from a training provider with a program that did not meet State required performance levels. A LWIB adopting such a local policy shall provide a copy of that policy to DOL/R&A. Adopting such a policy requires the LWIB to inform the

training providers, with programs going off the list, that specified supplemental data on employment and/or earnings will be accepted by the LWIB and the required due date for the receipt of the data. After reviewing supplemental information supplied by a provider, the LWIB shall determine that WIA Section 122(d) performance requirements were either met or not met.

A LWIB is responsible for managing the renewal/non-renewal of ETP eligibility of each program of training on the State's ETP list that is offered at a facility located within the LWIB's workforce development area. A LWIB may not determine the eligibility of a program of training that is offered in a facility located outside its workforce area.

It is the policy of the State to allow an eligible WIA Title I-B adult or dislocated worker to use an Individual Training Account (ITA) voucher to purchase training services offered by a provider on another State's ETP list. In arranging out-of-state ITA vouchers, a case manager must follow WIA Section 134(d)(4) requirements, Alaska State WIA policies, and local Workforce Investment Board ITA policies. The local policies may affect the terms of an individual training account plan and may be more restrictive concerning out-of-state ITAs.

Alaska will establish reciprocal ETP agreements with Oregon and Washington. Training programs located outside of Alaska may not appear on Alaska's ETP list but will be considered approved if they are in good standing on any other State's Eligible Training Provider list.

When a program of training is removed from the State ETP list, WIA registrants currently enrolled in the program with the support of an Individual Training Account may complete their training as outlined in their WIA Individual Employment Plan.

## **Section B**

### **Procedures for approving new programs for ETP eligibility from training providers.**

The following procedures pertain to training providers already on the State ETP list applying to add a new program to the list, and to other training providers requesting to have a program listed for the first time.

A training provider who wishes to have one or more of its programs of training added to the State ETP list must submit a completed application (Part A and Part B) to the DOL/R&A. Applications, developed by the LWIB, may be obtained from any LWIB or DOL/AWIO or the AHRIC.

Part A (*Appendix D*) of the application must include the minimum data elements on training providers and programs as specified by DOL/R&A.

Part B (Appendix E) of the application must include the minimum data elements on training programs and training participants, and data reporting due dates as specified by DOL/R&A. The Department of Labor will supply the data for Alaska's registered apprenticeship programs. Training providers who are unwilling to supply required and available participant data to DOL/R&A (or are unwilling to sign a statement of commitment to begin collecting and supplying the required participant data) shall be informed that their application will not be processed.

In order to apply, a training provider must submit a completed application (Part A and Part B) to DOL/R&A. DOL/R&A will send Part A of the application to the appropriate LWIB and the Alaska Commission on Post Secondary Education (ACPE). Alaska Commission on Post Secondary Education will review it and advise the LWIB and DOL/R&A of the school's authorization or exemptions status and, if authorization may be required. DOL/R&A will use participant data supplied in Part B of the application to conduct a cross-match of administrative records (e.g., participant records and unemployment insurance wage records) to determine whether a training program meets State required performance levels. Until DOL/R&A determines the eligibility of the training program, the provider will be granted "interim eligibility" status for the listed program as long as:

- a. the LWIB's Part A application requirements were met; and
- b. ACPE determines that the training provider is authorized or exempt when required in Alaska; and
- c. the program meets initial eligibility requirements for "interim eligibility" status.

Initial eligibility is met if the training provider is a public community or technical college or public university, registered apprenticeship program, private vocational school authorized or exempted by ACPE or educational institutions eligible to receive federal funds under Title IV of the Higher Education Act of 1965. For all "other" training providers not listed above, initial eligibility for "interim eligibility" status shall be decided by the LWIB following a general review of the training provider's institutional qualifications. Examples of elements that the LWIB may consider include: financial stability, quality of instructions and administrators, quality of the facilities and training equipment, curriculum, cost, rate of participant certification for a trade, job placement rates, wages, and completion rates.



## **Section C**

### **Procedures for denying initial ETP eligibility; removing training program from the list; and appeals.**

#### **1. Denial of Eligibility for Initial Listing on the State WIA Eligible Training Provider List**

##### **Reasons for Denial**

- a. The LWIB shall deny eligibility if an applicant fails to meet the minimum criteria for initial eligibility as specified in local LWIB policy and Section B of this policy.
- b. The LWIB shall deny ETP eligibility if the applicant intentionally supplied inaccurate information and shall deny ETP eligibility to a provider who has substantially violated any WIA requirements. Penalties are described in WIA Section 122(f)(1) and ( 2).
- c. After consulting with ACPE, the LWIB shall deny ETP eligibility to any private career school required by Alaska State law to be authorized or exempt to operate in the State and is not authorized or exempt.

If a LWIB denies eligibility for initial listing of a provider's program on the ETP list, the LWIB must, within 30 calendar days of this decision, inform the provider in writing and include the reason(s) for the denial and complete information on the appeal process. A copy of this notice must be sent to DOL/AWIO.

#### **2. Removal of a Program from the State ETP List**

##### **Reasons for Removal**

- a. The LWIB, in consultation with DOL/AWIO, shall remove a program (or programs) from the ETP list if the provider fails to supply DOL/R&A with available participant data required for the performance review within due dates established. Training providers who are unwilling to supply required and available participant data (or are unwilling to sign a statement of commitment to begin collecting and supplying the required participant data) shall be informed by the LWIB by certified mail that their program(s) of training will be removed from the State ETP list.
- b. The LWIB shall remove a program if it is determined that the applicant intentionally supplied inaccurate information and shall deny ETP eligibility to a provider who has substantially violated any WIA requirements.
- c. If State or local required performance levels are not met, the program shall be removed.

d. LWIBs have the option of establishing a local area policy to accept supplemental individual participant data from a training provider with a program that did not meet State required performance levels. Adopting such an option requires the LWIB to inform an affected training provider that certain supplemental data on employment and earnings will be accepted by the LWIB and the required due date for the receipt of the data. After reviewing supplemental information supplied by the school, the LWIB shall conclude that WIA Section 122(d) performance requirements were either met or not met. At the point when a LWIB determines that a program will be removed from the ETP list the LWIB shall, within 45 calendar days of this decision, inform the provider in writing and include the reason(s) for the removal and complete information on the appeals process. The LWIB must send a copy of this notice to DOL/AWIO.

The LWIB shall remove a program that is determined to be no longer eligible no earlier than the 31<sup>st</sup> calendar day from the issuance of the denial notice (see Section C.3.a. below). If a training provider chooses to appeal, a training program that is subject to removal shall remain on the State ETP list until the appeal is concluded.

### **3. Procedures for Appeals to a LWIB [WIA Section 122(g)]**

Each LWIB must have a written appeal policy that includes the following required provisions:

a. A provider wishing to appeal a decision by a LWIB must submit a written appeal to the LWIB within 30 calendar days of the issuance of the denial notice. The appeal must include a statement of the desire to appeal, specification of the program in question, the reason for the appeal and the signature of the training provider.

Note: If the appeal is limited solely to the issue of a program of training not meeting State required performance levels, and if the LWIB does not have an established policy accepting supplemental participant data, the LWIB may choose to expedite the appeal process by referring the appeal directly to DOL/AWIO.

b. The first step in any LWIB appeal process should be an informal meeting between the LWIB staff and the appealing provider. This meeting is an opportunity for the LWIB to explain to the training provider why a training program is not eligible to be on the WIA ETP list. The LWIB may use this meeting to invite the training provider to supply supplemental participant data (if LWIB policies allow supplemental participant data).

c. The LWIB procedures must include the opportunity for an appealing provider to have a hearing before an administrative hearing officer. Guidelines for how a hearing is structured must be described in the LWIB's appeal policy. The hearing

officer shall provide written notice to the concerned parties of the date, time, and place of the hearing at least 15 calendar days before the scheduled hearing. Both parties shall have the opportunity to request documents relevant to the issue(s). Supplemental participant data may be presented by the training provider if the LWIB accepts supplemental participant data.

d. A LWIB must notify the provider of its final decision on an appeal within 90 calendar days of receipt of the appeal. This period includes a hearing if requested by the provider. In addition, the LWIB must notify DOL/AWIO of its decision. The LWIB's written notification of its final decision must state that the provider has the right to request an appeal to DOL/AWIO.

#### **4. Procedures for Appeals to DOL/AWIO [WIA Section 122(g)]**

This procedure applies to:

- a. a provider whose appeal was directly referred to DOL/AWIO by the LWIB; and
- b. a provider who has exhausted the appeal process of a LWIB and is dissatisfied with the LWIB's final decision.

A provider wishing to appeal to DOL/AWIO must submit a written appeal request to DOL/AWIO within 30 calendar days of the issuance by the LWIB of its final decision on an appeal. The request for appeal must be in writing and include a statement of the desire to appeal, specification of the program in question, the reason for the appeal and the signature of the appropriate provider official.

DOL/AWIO must conduct a review within 30 calendar days from the date of receipt of the review request. DOL/AWIO will determine:

- a. whether the LWIB followed its appeal procedure; and
- b. whether the LWIB's decision was reasonable, fair, and in keeping with the intent of WIA.

In appeal cases where the training program met State required performance levels but did not meet the LWIB's performance standards, DOL/AWIO will establish whether the LWIB correctly followed its local performance procedures including, where applicable, its procedures for reviewing and accepting supplemental data provided by the appealing training provider. In an appeal challenging DOL/AWIO's process for determining State required performance levels, DOL/AWIO will review whether it followed consistent procedures when applying its standards. The decision rendered by DOL/AWIO, on behalf of the Governor, shall be final.

## Appendix A

### Definitions of Terms

- **Earnings:** A person's quarterly earnings found in unemployment insurance wage records or through federal payroll records. *For programs with a large amount of self-employment, only administrative records from the related industry will be included in the calculation. Appendix B provides information on supplemental data.*
- **Employed:** Reported employment found through unemployment insurance records in Alaska and other states or through federal payroll records. *Supplemental records may also be used as described in Appendix B.*
- **Exiters:** All participants in the program who left during the reporting period, no matter what the reason and regardless of their start date.
- **Minimum Data Requirement:**
  - **Part II-A.** Records on 10 exiters from the applicable program during the reporting period.
  - **Part II-B.** Records on 10 WIA-funded exiters from the applicable program during the reporting period.

In order for a performance measure to count toward eligibility determination, there must be data records on a minimum number of participants so the results are statistically valid. The minimum number of participant records is 10 during the reporting period (12 quarters). This minimum requirement pertains separately to each measure.

- **Social Security Number:** The US Department of Labor Memorandum, January 19, 2001, Application of Family Educational Rights and Privacy Act (FERPA) (20 U.S.C. 1232g).

"...FERPA provides that education records, or personally identifiable information from such records, may be disclosed by educational agencies and institutions only after an eligible student provides prior written consent, except in statutorily specified circumstances (20 U.S.C. 1232g(b)(1) and (d). See also 34 CFR 99.30). "Personally identifiable information" is defined by 34 CFR 99.3 as information that "includes but is not limited to:

...(d) a personal identifier, such as the student's social security number or student number;...

One of the exceptions, subject to the conditions and limitations discussed., is a disclosure in connection with a student's application for or receipt of financial aid (20 U.S.C. 1232g(b)(1)(d),...this exception applies only to the disclosure of student records relating to those students who receive training assistance under section 134 of WIA.

## Appendix A

### Continued...

Thus, in the case of a WIA participant, the financial aid exception allows for the disclosure of a student's SSN to another state agency for the purposes of measuring performance outcome as required by section 122 of WIA."

- **Non-Occupational Training:** Training less than 80 contact hours in duration and that does not result in:
  - (1) a certificate or a degree, or
  - (2) skills or competencies needed for a specific job or jobs, an occupation, occupational group, or generally, for many types of jobs or occupations, as recognized by industries and determined prior to training.
- **Program:** One or more courses or classes, or a structured regimen, that upon completion, leads to:
  - (1) a certificate or a degree, or
  - (2) skills or competencies needed for a specific job or jobs, an occupation, occupational group, or generally, for many types of jobs or occupations, as recognized by industries and determined prior to training.
- **Reporting Period:** 12 recent calendar quarters. e.g.: January through March, April through June, July through September and October through December for the past three years. *The most recent 12 calendar quarters that allow for sufficient time for data analysis prior to eligibility determination.*
- **Successful Completers:** All exiters who successfully completed the program during the reporting period include:
  - Those who have graduated with a degree or certificate or nationally recognized skill standard from the program. *Appendix C defines 'skill standard.' For apprenticeships, these include those who the committees have designated as having completed their programs.*
  - For community and technical colleges and private institutions, students who have transferred to a 4-year institution, or have completed a nationally recognized skill standard and are employed. *For private institutions that do not use the same quarter credit system as the community and technical college system, the acceptable equivalent will be a year of vocational training. Appendix C defines 'skill standard.'*

## Appendix A

### Continued...

- **Supplemental Data:** Training providers who fail to meet the minimum standards set by the AHIRC, may supply additional information about a participant's employment and earnings. Such information may include documentation on self employment and self reported earnings. Appendix B provides information on supplemental data.
- **Unsubsidized Employment:** Any employment where the employee's wages are not directly paid in whole or in part by funds provided under WIA Title I-B. Employment in the military also is considered unsubsidized employment.
- **WIA-funded Exiters:** All WIA-funded participants in the applicable program who left during the reporting period, no matter what the reason and regardless of their start date. *Exiters who are enrolled in education or training and not employed during the first quarter after exit will not be included in the calculation.*
- **WIA-funded Successful Completers:** All WIA-funded exiters who successfully completed the program during the reporting period include:
  - Those who have graduated with a degree or certificate or nationally recognized skill standard from the program. *Appendix C defines 'skill standard.' For apprenticeships, these include those who the committees have designated as having completed their programs.*
  - For community and technical colleges and private institutions, students who have transferred to a 4-year institution, or have completed a nationally recognized skill standard and are employed. *For private institutions that do not use the same quarter credit system as the community and technical college system, the acceptable equivalent will be a year of vocational training. Appendix C defines 'skill standard.'*

## **Appendix B**

### **Supplemental Data**

Under certain conditions a training provider may submit supplemental data to Department of Labor and Workforce Development, Research and Analysis (DOL/R&A) to be used to determine the eligibility of the provider's program(s). Supplemental data refers to data that is in addition to administrative records used by DOL/R&A in calculating the performance measures.

- **Employment**

If a program of a training provider fails to meet the required performance level based on administrative records, then the provider may submit supplemental employment data to DOL/R&A to measure employment for performance measures number **A-2**, **B-1**, or **B-2**. Supplemental data may consist of either:

- (1) individual employment records that meet the standards of the provider's accrediting agency, or
- (2) a copy of a W-2 form, pay stub, or Internal Revenue Service 1099 form that documents employment during the time period in the measure.

A local Workforce Investment Board may accept other types of supplemental data for individual participants at its discretion.

- **Wages**

If a training program fails to meet the required performance levels, the program may submit supplemental earnings data to DOL/R&A for performance measures number **A-3** or **B-3** for former participants who are self-employed. The supplemental data may consist of a copy of a tax form submitted to the United States Internal Revenue Service that shows earnings from self-employment during the year in which the third quarter post-exit occurs. For purposes of the measure(s), the gross earnings reported for the year will be divided by four in order to approximate quarterly earnings.

A local Workforce Investment Board may accept other types of supplemental data for individual participants at its discretion.

## Appendix C

### Nationally Recognized Skill Standards

#### **Statement of Policy Individual Training Account (ITA) / Eligible Training Provider (ETP) September 6, 2001**

Section 122(d)(2)(A) of the Workforce Investment Act provides the Governors of the states discretionary authority regarding the establishment of provisions used to determine the eligibility of training providers to receive WIA funds from Individual Training Accounts (ITAs). Pursuant to that authority, the Alaska Unified Plan contains the requirement that to be certified as eligible recipients of WIA vouchers from ITAs, subsequent to the first 18 months of WIA implementation, training providers must “base training on the requirements of industry-based, nationally recognized skill standards and occupational certifications, especially those endorsed by the National Skill Standards Board (NSSB), that exist for the courses of study offered.” (Alaska Unified Plan, p.63).

This WIA Unified Plan requirement is taken to mean nationally recognized, industry-based skill standards and occupational certifications should be firmly embedded in policies and procedures at every level of Alaska’s workforce investment system, including the State Workforce Investment Board, Local Workforce Investment Boards (LWIB), Unified Plan partner agencies, One Stop operators, and training providers. All of these entities should institute the practice that occupational training programs under WIA:

- a) align with/use existing nationally recognized, industry-based skill standards and certifications as the basis for developing competency-based learning objectives, curricula, instructional methods, teaching materials, and classroom/worksite activities;
- b) prepare their students/trainees to satisfy the employer knowledge and skill requirements assessed by related examinations; and
- c) provide their students/trainees with the opportunity to take these exams and receive certifications corresponding to their courses of study.

The Alaska Unified Plan in section E.1.b-viii (p.63) states:

#### ***Local Individual Training Accounts***

*The State of Alaska encourages Local Workforce Investment Areas to utilize Individual Training Accounts to fund appropriate classroom and specialized training. Eligible training service providers are authorized to receive Individual Training Account documents....*

*For the first 18 months after implementation of the WIA, Alaska intends to recognize all training institutions already approved for funding by the Alaska Commission on Post-Secondary Education which has a long history of promoting quality training in Alaska. After this period, the requirements to be an eligible provider will include:*



*-The need to base training on the requirements of industry-based, nationally recognized skill standards and occupational certifications, especially those endorsed by the National Skill Standards Board, that exist for the courses of study offered.*

The Alaska Unified Plan in section E.1.b-vii (p.61) states:

***Identifying Eligible Providers***

*LWIBs will identify providers of training services for the Adult and Dislocated worker programs using the following:*

*1. The State and the Local Workforce Investment Board (LWIB) need the following information in order to qualify training program service providers and to maintain a verifiable list of providers for customer use:*

*–description of training offered*

*–use of nationally recognized, industry-based skill standards and occupational certifications*

*–success rates, as calculated by:*

*–percentage completion of training; terminations/quitting breakout*

*–percentage passing certification examinations and receiving related credentials in that field*

The Alaska Unified Plan in section E.1.b-ix (p.63) states:

***Youth Activities***

*Local advisory committees and Youth Councils will have input in the planning and oversight process for review of youth activities. Specialized youth services will be solicited by competitive Request For Proposals (RFPs) advertised through the general mass media and the Alaska Administrative Journal. The proposals will be reviewed and scored by a local review group comprising representatives knowledgeable in youth services, employment, training, culture and the geographic area from which proposals are solicited.*

*The award granting process will emphasize existing criteria used for selecting youth activities.*

*The State Board and LWIBs will develop criteria to identify effective and ineffective youth activities and providers. Consideration will be given to activities and providers that:*

*–Demonstrate successful utilization of nationally recognized skill standards and occupational certifications.*

The Alaska Unified Plan in section K.1.b-ii (176) states:

***System Measures***

*The credential rate (for adults, dislocated workers, and youth ages 19-21) should emphasize the attainment of credentials based on nationally recognized, industry-based skill standards and occupational certifications. The youth (ages 14-18) skills attainment rate should emphasize occupational skills attainment based on nationally recognized industry-based skill standards and occupational certifications.*

The specific identification of ‘nationally recognized, industry-based occupational certifications’ is not addressed in the Alaska Unified Plan. Utilizing best practices models found in other states with similar requirements (New Jersey and Virginia) the following criteria, generated in concert with the NSSB, are offered in determining appropriate certifications for use by Eligible Training Providers utilizing Individual Training Accounts under the Alaska Unified Plan:

- Certification program sponsorship by a recognized professional organization, trade association, and/or industry organization (including vendors such as Microsoft or Cisco Systems)
- Certification program acceptability that is at least national in scope, including portability throughout the United States by the credential holder.
- Certification test assessment that is knowledge/skill-based, that is standardized, that is administered on a multi-state or national basis, and that is third party scored and reported.
- Certification program linkage to new or enhanced employment opportunities, including improved first-time job opportunities for entry-level workers, effective re-training for displaced workers, or career ladder progression for incumbent workers; or to further higher-level job preparation education and training, such as through completion of an apprenticeship program or attainment of a post secondary degree.

To implement these requirements, Alaska has been working with the NSSB to conduct extensive research necessary to provide a solid foundation for this endeavor. The NSSB has provided a broad base of research and knowledge in the identification of appropriate ‘skill standards and occupational certifications’ in numerous employment areas.

Alaska’s Business Learning Consortia have been the recipients of much of the work and research conducted by the NSSB. The various consortia have utilized that information, as well as the results of their own standards and certifications research in identifying and developing training and education programs within their respective industries.

The Alaska Department of Education and Early Development has been making use of NSSB research and information, in addition to their own research, in implementing the requirements of the Alaska Unified Plan and the Perkins Plan to achieve “nationally recognized, industry-based skill standards and occupational certifications” in all Perkins supported programs.

Many of Alaska’s post-secondary training and education providers, including approved apprenticeship programs, have taken advantage of the research provided by NSSB and many have conducted their own research in determining appropriate “nationally recognized, industry-based skill standards and occupational certifications” for their clientele.

**WIA Training Provider Eligibility Policy****Policy Number: 1001****Page 19 of 22**

In order to meet the requirements of the Alaska Unified Plan related to the determination of the subsequent eligibility of training providers, user friendly protocols and procedures to gather, verify, and document information attesting to/assuring provider compliance will be developed and instituted as a functional part of WIA operations in Alaska.

## **Appendix D**

### **Data Elements To Be Submitted By The Local Workforce Investment Boards For Each Provider And Training Program They Authorize to Place On The Eligible Training Provider List (Part 'A' of the Application)**

#### **For each training provider:**

- ☐ School Name
- ☐ School Website
- ☐ School Address/City/State/Zip Code
- ☐ Main School Phone Number
- ☐ Financial Aid Contact E-mail Address
- ☐ Financial Aid Contact Phone Number
- ☐ School Accreditation (Yes/No)
- ☐ If Accredited, By Whom? \_\_\_\_\_

#### **For each program of training:**

- ☐ Classification of Instructional Programs (CIP) Code
- ☐ Name School Uses For This Program
- ☐ Program Contact Person
- ☐ Program Contact Phone Number, e.g. (555) 555-5555
- ☐ Program Contact E-mail Address
- ☐ Program Website At The School
- ☐ Admission Requirements Unique to This Program
- ☐ Test(s) Given To Students Entering this Program
- ☐ Program Length
- ☐ Weekly In-Class Hours For Full-time Student
- ☐ Is Part-Time Enrollment Permitted?
- ☐ Type of Educational Credential Earned By Program Completers
- ☐ Is A Certification Or Licensure Test Required To Work In This Field?

#### **Next Enrollment Opportunity**

- ☐ Application Deadline (e.g. Jan. 31, 2002)
- ☐ Program's Subsequent Start Date (e.g. Jan.31, 2002)

#### **Financial Information**

- ☐ Current Regular Tuition Per Term For Full-Time Student
- ☐ Total Tuition Per Hour/Credit
- ☐ Additional Costs and Fees Per Term

The elements identified above will be submitted electronically by the training provider using a pre-established database format. Training providers will be provided a password to access the program information section of the database to periodically make changes and updates.

## **Appendix D**

### **Continued...**

- ☐ By virtue of my name herein identified on this electronic form, I, \_\_\_\_\_  
certify that the training provider, \_\_\_\_\_:
- (a) is a legal entity, registered to do business in the State of Alaska
  - (b) is eligible to receive Federal funds, and is (✓ check one):
    - ☐ (1) a postsecondary institution eligible to receive Federal funds under the Higher Education Act, or
    - ☐ (2) an apprenticeship program recognized under the National Apprenticeship Act, or
    - ☐ (3) a public or private provider of training programs
  - (c) does not discriminate against nor deny employment or services to any person on the grounds of race, color, religion, sex, national origin, age, handicap, citizenship, political affiliation or belief
  - (d) complies with the 1990 Americans with Disabilities Act (ADA)
  - (e) has demonstrated effectiveness in operating occupational classroom training programs(s) including provision of placement assistance
  - (f) agrees that provider facilities, classroom instruction, relevant financial records, and attendance records may be reviewed during the period of performance of any voucher by state, federal and/or local monitors or auditors to ensure compliance with funding requirements
  - (g) agrees to annually provide DOL/R&A with key participant data needed to conduct an annual program performance review.

## **Appendix E**

### **Program and Training Participant Information**

#### **Required Data from the Training Provider (Part 'B' of the Application)**

##### **Program Overview Information**

Provide an electronic file with a narrative description of the training, degree or certificate program(s) including:

1. General narrative description of the program
2. Program name
3. Classification of Instructional Programs (CIP) 6 digit code, if available
4. Credential offered by the program: certificate, degree or other
5. Program cost (tuition and fees)
6. Typical length of program

##### **Training Participant Information**

Provide an electronic file with one record per training program participant exiting the program with the following data fields:

1. Training institution
2. Campus or city location of training
3. Social Security Number
4. Classification of Instruction Programs (CIP) 6 digit code
5. Name of training, degree or certificate program pursued by participant
6. Student start date in the program: YYYYMMDD
7. Student exit date from the program: YYYYMMDD
8. Indicate the completion status of the student:
  - 1 = Degree or certificate awarded or program completed
  - 2 = Student enrolled but didn't complete the program
9. For those that did not complete program, reason for exit:
  - 1 = Withdrew with full refund
  - 2 = Entered active duty military
  - 3 = Entered religious program or mission
  - 4 = Entered Peace Corps or AmeriCorps
  - 5 = Transferred to another educational program
  - 6 = Withdrew for medical reasons
  - 7 = Incarcerated
  - 8 = Died

##### **Due Dates**

Providers must submit data for the calendar year no later than June 30 of the following year.



**U.S. Department of Labor  
U.S. Department of  
Education**



**MEMORANDUM FOR: STATE WORKFORCE DIRECTORS  
STATE DIRECTORS OF HIGHER EDUCATION AGENCIES  
STATE DIRECTORS OF COMMUNITY, JUNIOR AND TECHNICAL COLLEGES  
STATE DIRECTORS OF EMPLOYMENT SECURITY AGENCIES**

**FROM: RAYMOND BRAMUCCI, Assistant Secretary of the Department of Labor  
for Employment and Training**

**JUDITH A. WINSTON, Under Secretary of the Department of Education**

**SUBJECT: APPLICATION OF FERPA TO REPORTING FOR ELIGIBLE  
TRAINING PROVIDERS UNDER TITLE I OF WIA**

**DATE: January 19, 2001**

The purpose of this memorandum is to address concerns that have been raised by some States regarding the effect of the Family Educational Rights and Privacy Act (FERPA) (20 U.S.C. 1232g) on the administration of the eligible training provider provisions under section 122 of the Workforce Investment Act of 1998 (WIA) (29 U.S.C. 1801, et seq.). As this memorandum describes below, we believe the performance information required under section 122 may be obtained by entities administering WIA in a manner that is consistent with the requirements of FERPA.

### **Eligible Training Provider Requirements of Title I of WIA**

Section 122 of the WIA requires that, for a program of study to be eligible to receive training funds under section 134(d)(4) of WIA (relating to adult and dislocated worker programs), the provider of the program (often an educational institution) must, among other things, provide certain performance outcome information relating to all students who participated in the program. WIA requires performance outcomes on all students, whether or not such students received financial assistance under section 134 of the law. This information includes program completion rates, percentage of students obtaining unsubsidized employment, and wages at placement in employment. Section 122 of WIA also requires additional information relating to the performance outcomes of students in the program who received assistance under section 134, including retention in employment and earnings six months after placement in employment.

The primary purpose of all of this information is to develop "consumer reports" on eligible programs that will be made available at local One-Stop centers to assist section 134 participants, as well members of the general public, in selecting the most effective training providers. In addition, the information is used to determine whether the programs meet the minimum performance levels established by each State under section 122(c) for the programs to retain eligibility to receive

assistance under section 134 of WIA.

The data on each program is to be reported to the public in the aggregate. Section 122(c)(5)(B) of WIA generally requires that wage record matches be used in developing the aggregate reports relating to placement in unsubsidized employment and earnings. Wage record matches, which are also the most efficient and reliable method for obtaining this performance information, are accomplished by conducting a computer match of the Social Security Number (SSN) of the student (maintained by the educational institution) with the wage records that are maintained by State agencies administering the unemployment insurance program. The SSN maintained by the educational institution is an education record under FERPA. Under the exceptions discussed below, an educational institution may disclose an SSN to an entity involved in the administration of section 122, that has been authorized by the state educational authority to receive such information. The entity receiving the SSN may not redisclose the education record in personally identifiable form. Further, this record must be destroyed when no longer needed for the purposes of complying with section 122 of WIA.

### **Application of FERPA Requirements**

FERPA is a Federal law that protects an eligible student's privacy interest in his or her "education records." In particular, FERPA affords eligible students the right to inspect and review their education records, the right to seek to have the records amended, and the right to have some control over the disclosure of information from the records. Section 136(f)(3) of the WIA specifically makes FERPA applicable to WIA programs. The term "education records" is broadly defined as:

"[T]hose records, files, documents, and other materials, which (i) contain information directly related to a student; and (ii) are maintained by an educational agency or institution or by a person acting for such agency or institution." (20 U.S.C. 1232g(a)(4). See also 34 CFR 99.3 "Education records.")

FERPA provides that education records, or personally identifiable information from such records, may be disclosed by educational agencies and institutions only after an eligible student provides prior written consent, except in statutorily specified circumstances (20 U.S.C. 1232g(b)(1) and (d). See also 34 CFR 99.30.). "Personally identifiable information" is defined by 34 CFR 99.3 as information that "includes but is not limited to:

(a) the student's name; (b) the name of the student's parent or other family member; (c) the address of the student or the student's family; (d) a personal identifier, such as the student's social security number or student number; (e) a list of personal characteristics that would make the student's identity easily traceable; or (f) other information that would make the student's identity easily traceable."

FERPA generally prohibits an educational institution from disclosing personally identifiable information from individual student records (such as an SSN) without the prior written consent of the eligible student or parent unless such disclosure falls within one of several exceptions specified under the Act. One of the exceptions, subject to the conditions and limitations discussed in more detail below, is a disclosure in connection with a student's application for or receipt of financial aid (20 U.S.C. 1232g(b)(1)(D)). We believe this exception applies only to the disclosure of student



records relating to those students who receive training assistance under section 134 of WIA. Thus, in the case of a WIA participant, the financial aid exception allows for the disclosure a student's SSN to another state agency for the purposes of measuring performance outcome as required by section 122 of WIA.

Subject to the conditions and limitations discussed below, we believe that another exception under FERPA allows providers to disclose the SSNs of all students in a program of study to the entity responsible for preparing the performance information required under section 122 of WIA. This exception allows educational institutions (providers) to disclose personally identifiable information from education records to authorized representatives of State educational authorities in connection with the audit and evaluation of Federally-supported education programs, or in the enforcement of Federal legal requirements relating to such programs (20 U.S.C. 1232g(b)(1)(C)). In short, a State educational authority may authorize a representative to obtain the personally identifiable information such as SSNs from an educational institution for the limited purpose of conducting the required wage record matches and preparing the aggregate information necessary for the consumer reports. Such disclosures may be made to an authorized representative, which could include an entity such as the State UI agency, an entity involved in carrying out interstate wage record matches under the Wage Record Interchange System (WRIS), the State WIA agency, or another entity carrying out the performance reporting requirements of section 122 of WIA. The disclosure, however, is subject to the conditions and limitations of FERPA that are discussed in more detail below.

### **Conditions and Limitations on Disclosures without Prior Consent**

As a condition of disclosure under the authorized representative exception, personally identifiable information such as an SSN from a student's records may not be redisclosed by an authorized representative to a third party without the prior written consent of the student. In applying the authorized representative exception, FERPA provides that personally identifiable information such as SSNs may be used only by the entity designated to prepare the performance information under section 122. Further, such information must be destroyed by such entity when it is no longer needed for the purposes of section 122. Finally, FERPA requires that all disclosures by an educational institution be recorded in the student's file.

### **Conclusion**

This memorandum summarizes the requirements regarding the reporting of performance information for programs of study conducted by educational institutions required by section 122 of WIA. The memo further describes how such information may be obtained consistent with the requirements of FERPA. We do not believe such requirements will impose undue burdens on educational institutions or on entities involved in administering Title I of WIA, and we believe that these requirements can be carried out in a manner that ensures the accountability of training providers while appropriately protecting the privacy of individual students. If you have any questions regarding this memorandum, please contact Maria Kniesler, Division of One-Stop Operations, at (202) 693-3045.